IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8710 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AMTS

Versus

AMRITLAL MOTILAL TAPODHAN

Appearance:

MR HS MUNSHAW for Petitioner

MR VM DHOTRE for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 11/09/2000

ORAL JUDGEMENT

#. Rule. The Learned counsel for the respondent waives service of rule.

#. The petitioner, a local Municipal Transport Service, has challenged the award of the Labour Court, Ahmedabad

whereby the respondent- a conductor, is ordered to be reinstated with 50% of backwages and stoppage of one increment for 1 year.

#. The Learned counsel for the petitioner has referred to the misconduct proved and past record of 35 misconducts and submitted that the impugned award and order are not legal and justified. Going through the award, it appears that after appreciating the evidence and considering the record of misconduct, the Labour Court has, in exercise of its power under Section 11(A) of the I.D.Act. set aside the punishment of dismissal and awarded backwages with minor punishment of stoppage of one increment. There is no discussion about the award of 50% backwages. The Learned counsel for the respondent has fairly conceded that in view of the facts and circumstances of the case, the respondent may be made to suffer the further punishment of loss of all the backwages. In view of this concession and in view of the fact that the order of further punishment of stoppage of one increment is also made, the end of justice would be met if the impugned award is modified to the extent of denying the backwages to the respondent.

#. Accordingly the petition is partly allowed and the impugned award shall stand modified to the extent that the respondent shall not be entitled to any backwages. The Learned counsel for the petitioner states that the order modified as above shall be implemented within 4 weeks from today. Rule is made absolute in terms as above with no order as to costs.

kks